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10/576,577	04/20/2006	Didier Roland Emile Le Bleis	127815	4123
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EXAMINER				
ST CLAIR, ANDREW D				
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3749				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/576,577

**Applicant(s)**

LE BLEIS, DIDIER ROLAND EMILE

**Examiner**

ANDREW ST CLAIR

**Art Unit**

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/20/2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 7/6/2006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "hot air providing means" of claim 6, the "regulating means" of claim 8, and the "several sleeves of different diameters" of claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Applicant should also thoroughly check the claims for compliance, as this is not necessarily an exhaustive list of such problems.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6-14 and 17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 6, it is unclear what is referred to by the recitation "hot air providing means," if it is recited as distinct from "means for generating a hot air stream" recited in claim 4. No numeral is provided in the specification referring to the drawings to illustrate what structural element comprises the "hot air providing means," and no description is provided in the specification to detail the structural element is referred to. Accordingly, the scope of the claim is unclear.

With respect to claim 8, it is unclear what is referred to by "regulating means," if it is recited as distinct from "shutting means" recited in claim 7. No numeral is provided in the specification referring to the drawings to illustrate what structural element comprises the "shutting means," and no description is provided in the specification to detail the structural element is referred to. Accordingly, the scope of the claim is unclear.

With respect to claim 17, the recitation of "the grid" is without antecedent basis or improperly uses interchanging terminology to refer to "the furnace grid." Accordingly, it is unclear whether "the grid" is a new structure or a previously recited structure. Claim 17 is considered indefinite because the scope of the claim is not clear; no claim dependent therefrom

clarifies the ambiguity and thus each independent claim is also indefinite for at least the same reason.

With respect to claim 10, it is unclear how the pipe has "several sleeves of different diameters," and it is unclear how such a structure could enable connection to "several fans." The figures do not depict such an arrangement and no clarification is provided in the specification.

With respect to claim 14, the recitation of "...to widely diffuse, by way of a hot air stream division caused by a truncated washer disposed inside the pipe, dividing the hot stream..." is unclear. It is unclear how holes can diffuse by way of a washer. It is also unclear what the holes are diffusing. The claim also reads as a grammatically incorrect sentence.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 4-11, and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Wrasse (US 5,176,124).

With respect to claim 4, Wrasse discloses a solid fuel apparatus, comprising: a container 19 for containing a solid fuel; and means 21 for generating a hot air stream on at least one part of the solid fuel.

With respect to claim 16, Wrasse further discloses the claimed subject matter wherein the solid fuel apparatus is a heating apparatus or a barbecue-type cooking apparatus. (see Abstract, Title.)

With respect to claim 5, Wrasse further discloses the claimed subject matter further comprising: a furnace grid 23; and an ash pit 22 disposed under the furnace grid, the furnace grid and the ash pit being disposed in a bottom of the container.

With respect to claim 17, Wrasse further discloses the claimed subject matter wherein the means for generating a hot air stream on the at least one part of the solid fuel includes: a pipe (see fig. 2, a short pipe connects blower 21 to canister 18) to feed the hot air stream into the container, the pipe having a first end and a second end, the first end of the pipe leading to the grid in the container, or over the grid (the end distal from the blower is over, or above, the grid), and a hot air stream generator 21 disposed outside of the container and connected to the second end of the pipe.

With respect to claim 6, Wrasse further discloses the claimed subject matter wherein the pipe to feed the hot air stream into the container further has a hot air providing means 56 to provide hot air to the ash pit.

With respect to claim 7, Wrasse further discloses the claimed subject matter further comprising: a shutting means 16, 26 to obstruct the hot air provided to the ash pit, the shutting means being movable between at least two positions including a first position where the hot air providing means is open and a second position where the hot air providing means is closed. (col. 4, ln. 25-26.)

With respect to claim 8, Wrasse further discloses the claimed subject matter further comprising: regulating means 26 for regulating the hot air stream fed by the pipe.

With respect to claim 9, Wrasse further discloses the claimed subject matter wherein further comprising: means for diffusion of the hot air stream in a horizontal plane and radially into the container. (see fig. 2, container 19 has radial holes that diffuse air horizontally and radially.)

With respect to claim 10, Wrasse further discloses the claimed subject matter wherein the second end of the pipe connected to the air stream generator has several sleeves of different diameters including one or several entries, enabling connection to one or several fans equipped with heating resistance by a rapid-junction means. (see the above indefiniteness rejection and drawing objection. To the extent which this claim limitation has any definite meaning to which prior art can be applied, Examiner takes official notice that sleeve-type pipe couplings are notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to provide the pipe of Wrasse with a sleeve-type pipe coupling for the purpose of facilitating quick and simple coupling.)

With respect to claim 11, Wrasse further discloses the claimed subject matter wherein the pipe is connectable to the apparatus by a drilled hole at the ash pit in the bottom of the container, the pipe being quickly fitted on the apparatus by way of thread, lug, quarter turn milled ring or by a rapid-junction means (see figs. 1 and 2, the pipe is coupled by what appears to be 4 screws or bolts, either one of which is considered a "rapid junction means." The pipe is considered to be "at" the ash pit in that it is directly above and immediately proximate to the ash pit. With respect

to the recitation of "drilled hole," this is considered to be a product-by-process limitation, thus the hole of Wrasse is considered to anticipate the claim because it is of the type that could be produced by drilling. See MPEP 2113.)

6. Claims 1-2 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by MacLachlan (US 3,060,868).

With respect to claim 1, MacLachlan discloses an ignition method for a solid fuel apparatus, the method comprising: blowing hot air on at least one part of solid fuel, which is arranged in a container of the solid fuel apparatus, to initiate combustion of the at least one part of solid fuel. (col. 3, ln. 3-19; the updraft causes pieces of charcoal not touching heater 4 to ignite by blowing air up through the ignited charcoal touching heater 4.)

With respect to claim 2, MacLachlan further discloses blowing hot air on the fuel after initiating combustion of the at least one part of the solid fuel, to increase the spreading of combustion of the fuel, or to poke the fuel in the container. (col. 3, ln. 3-19; the updraft causes the fire to spread to all the pieces of charcoal.)

With respect to claim 15, MacLachlan further discloses the claimed subject matter wherein the solid fuel apparatus is a heating apparatus or a barbecue-type cooking apparatus.

7. Claims 4-6 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by (FR 2,282,250).

With respect to claim 4, the '250 reference discloses a solid fuel apparatus (see fig. 1), comprising: a container 10 for containing a solid fuel; and means 15 for generating a hot air stream on at least one part of the solid fuel.



With respect to claim 16, the '250 reference further discloses the claimed subject matter wherein the solid fuel apparatus is a heating apparatus or a barbecue-type cooking apparatus. (see Title.)

With respect to claim 5, the '250 reference further discloses the claimed subject matter further comprising: a furnace grid 16; and an ash pit 17 disposed under the furnace grid, the furnace grid and the ash pit being disposed in a bottom of the container.

With respect to claim 17, the '250 reference further discloses the claimed subject matter wherein the means for generating a hot air stream on the at least one part of the solid fuel includes: a pipe 28 to feed the hot air stream into the container, the pipe having a first end and a second end, the first end of the pipe leading to the grid in the container (see fig. 1), or over the grid, and a hot air stream generator 15 disposed outside of the container and connected to the second end of the pipe.

With respect to claim 6, the '250 reference further discloses the claimed subject matter wherein the pipe to feed the hot air stream into the container further has a hot air providing means 27 to provide hot air to the ash pit.

With respect to claim 10, the '250 reference further discloses the claimed subject matter wherein the second end of the pipe connected to the air stream generator has several sleeves of different diameters including one or several entries, enabling connection to one or several fans equipped with heating resistance by a rapid-junction means. (see the above indefiniteness rejection and drawing objection. To the extent which this claim limitation has any definite

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meaning to which prior art can be applied, the coupling between the fan 15 and the pipe appears to be a sleeve-type coupling.)

With respect to claim 11, the '250 reference further discloses the claimed subject matter wherein the pipe is connectable to the apparatus by a drilled hole at the ash pit in the bottom of the container, the pipe being quickly fitted on the apparatus by way of thread, lug, quarter turn milled ring or by a rapid-junction means (see fig. 1 the pipe is coupled via a thread. The pipe is considered to be "at" the ash pit in that it is connected directly to the ash pit. With respect to the recitation of "drilled hole," this is considered to be a product-by-process limitation, thus the hole of The '250 reference is considered to anticipate the claim because it is of the type that could be produced by drilling. See MPEP 2113.)

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over MacLachlan (US 3,060,868) in view of Mennen (US 3,645,517).

With respect to claim 3, MacLachlan does not disclose removing moisture from the solid fuel by blowing hot air on the solid fuel before initiating combustion of the at least one part of the solid fuel. It is notoriously old and well known that production of charcoal typically includes a step of drying including circulating air over the charcoal, as evidenced by Mennen. Charcoal produced by the method disclosed in Mennen and subsequently ignited by the apparatus of MacLachlan would anticipate all of the steps of claim 3. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the charcoal of Mennen in the apparatus of MacLachlan for the purpose of igniting charcoal to cook with.

11. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over (FR 2,282,250).

With respect to claim 12, the '250 reference further discloses the claimed subject matter wherein the pipe is inserted into the ash pit until the pipe is immediately below the furnace grid of the apparatus. With respect to the recitation of "until the pipe brushes against the furnace grid," such an arrangement of parts is considered to be merely a matter of design choice within the purview of one skilled in the art, absent a showing of new or unexpected results above and beyond those achieved by the prior art.

With respect to claim 13, the '250 reference further discloses the claimed subject matter wherein the pipe is fitted onto the ash pit by a rapid-junction means, enabling removal of the pipe in order to enable emptying of the ash pit. (see fig. 1; the threaded coupling depicted is

considered to be "rapid-junction means." With respect to the recitation of "enabling removal of the pipe in order to enable emptying of the ash pit," this is considered to be a functional claim limitation, and thus is anticipated because the prior art is capable of performing the claimed function. See MPEP 2114.)

With respect to claim 14, no prior art could be applied because of the highly indefinite nature of the claim, see the above indefiniteness rejection.

### ***Conclusion***

12. Prior art made of record but not relied upon which is considered pertinent to applicant's disclosure is included in the attached Notice of References Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW ST CLAIR whose telephone number is (571)270-3513. The examiner can normally be reached on Monday - Friday, 8 a.m. - 6 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

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like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew St.Clair/

Examiner, Art Unit 3749

/Steven B. McAllister/

Supervisory Patent Examiner, Art Unit 3749